HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No. 14751 of 2007

Date 16-7-2007

Between:
U. Revappa

……PETITIONER

AND

Government of Andhra Pradesh,
Secretary, Medical & Health Department,
Hyderabad and others.

……..RESPONDENTS

THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.14751of 2007

ORDER: (per Smt. T.Meena Kumari,J)

The petitioner filed the present writ petition seeking a writ of certiorari to call for the records relating to the order made in M.A. No. 3450 of 2006 in O.A. SR. No. 13761 of 2006, dated 25.4.2007.

The brief facts of the case are that the petitioner was appointed as Kamattee on 2.2.1998 in a Rural Health Centre, which was under the control of the Principal, Osmania Medical College. Subsequently, when the post of Fitter Maistry fell vacant in Rural Health Centre, Patacheru, the petitioner was promoted as Fitter Maistry on 30.4.1996. The grievance of the petitioner is that though he has been working as Fitter Maistry, he was not being paid the time scale of pay attached to the said post. He, therefore, made a representation to the Director of Medical and Health on 5.8.1999 followed by several other representations. When no action was taken on the said representations, the petitioner filed O.A. SR. No. 13761 of 2006 before the Tribunal. Since there was some delay in approaching the Tribunal, the petitioner was directed to file a condone delay petition. The Tribunal though initially issued notice on the condone delay petition in M.A No. 3450 of 2006,

however, by the order impugned in this writ petition, it refused to condone the delay in filing the O.A.SR. and accordingly dismissed the M.A. Aggrieved by the same, the petitioner filed the present writ petition.

Learned counsel for the petitioner would contend that Tribunal erred in dismissing the application on the ground that sufficient cause is not shown for condoning the delay and the application is barred by limitation. He, therefore, prayed that the writ petition be allowed and the order impugned be set aside.

On the other hand, learned Government Pleader for Services-I has supported the impugned order and stated that since there is no post of Fitter Maistry vacant, the petitioner cannot be continued in the said post. He, therefore, prayed that the writ petition be dismissed.

At this stage, learned counsel for the petitioner produced a copy of the proceedings issued by the Principal, Osmonia Medical College on 5.6.2007, reverting the petitioner to the original post of Kamattee. He, therefore, sought leave of this Court to assail the said proceedings before the appropriate forum.

Admittedly, even according to the proceedings dated 5.6.2007 issued by the respondents, the petitioner has been working as fitter maistry. When the respondents themselves have promoted the petitioner to the post as Fitter Maistry, they are bound to pay the time scale of pay attached to the said post. Further, when the petitioner has been making representations to the authorities seeking payment of time scale of pay attached to the said post, the respondents cannot deny the same on the ground that the claim of the petitioner is barred by limitation. That apart, when the petitioner filed O.A. assailing the inaction of the respondents in non-payment of time scale of pay attached to the said post, the Tribunal, by the impugned order, dismissed the

application in a quite routine manner on the ground that it is barred by limitation. In the circumstances, we are of the opinion that the matter requires to be remanded to the Tribunal for fresh adjudication.

While reserving such liberty to the petitioner to assail the proceedings dated 5.6.2007, we allow the writ petition and set aside the impugned order and remand the matter to the tribunal for fresh consideration and disposal in accordance with law. No costs.

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(T. MEENA KUMARI,J)

Date: 16th July, 2007

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(G. CHANDRAIAH,J)

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